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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/069,642	02/28/2002	Katsuhiko Hiramatsu	L9289.02131	3592

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EXAMINER	
AGHDAM, FRESHTEH N	

ART UNIT	PAPER NUMBER
2611	

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/069,642	HIRAMATSU ET AL.	
	Examiner	Art Unit	
	Freshteh N. Aghdam	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *06 February 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *17-20 and 25* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) *21-24,26 and 27* is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

Applicant's arguments, see pages 10-12, filed 2/6/2006, with respect to the rejection(s) of claim(s) 17-27 under Parkvall et al, Lee et al, and Garceran et al have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Parkvall et al and Laakso et al (US 6,603,773).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 17-18, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parkvall et al (6,542,736).

As to claims 17 and 25, Parkvall teaches a basestation apparatus comprising a receiver section that receives information of the reception quality of a control channel signal measured at a communication terminal apparatus (block 62 of figure 4) measured at a communication terminal apparatus (Col. 2, Lines 16-19; Col. 3, Lines 1-9; Col. 7, Lines 28-35); a deciding section that decides a modulation system and coding system

(Fig. 4, means 62, 54, 56, and 60) used for a packet data to be transmitted to a terminal apparatus based on the information of the reception quality of said control channel signal and transmit power values of the control channel and the data channel signal at the base station apparatus, wherein the maximum data throughput that is sustained for a given level of transmission power (Fig. 4 and 11; Col. 11, Lines 12-26); transmitting means for transmitting the data channel signal according to a modulation system and coding system decided by the deciding section (Fig. 4; Col. 7, Lines 44-47). Parkvall does not expressly disclose that the maximum data throughput is based on both the transmission power values of the control channel and the data channel. However, the transmission power value is not changing for the link adaptation method and/ or apparatus of Parkvall; therefore, the transmission power value is the same for the control channel and the data channel signals at the base station. Therefore, it would have been obvious to one of ordinary skill in the art to use the information regarding the reception quality of the control channel and transmission power values of the control and data channel signals to determine the modulation and coding scheme that results the maximum data rate.

As to claim 18, Parkvall teaches a communicaiton method and/ or apparatus, wherein the reception quality of a control channel signal (block 62 of figure 4) measured at a communication terminal apparatus (Col. 2, Lines 16-19; Col. 3, Lines 1-5; Col. 7, Lines 28-35); transmitting means for transmitting the reception quality of the control channel signal to the base station apparatus (Fig. 4, Block 62; Col. 2, Lines 16-19; Col. 3, Lines 1-9; Col. 7, Lines 28-35).

Claims 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parkvall et al, and further in view of Laakso et al (US 6,603,773).

As to claim 19, Parkvall teaches a terminal apparatus comprising a measuring section that measures the reception quality of a control channel signal (Fig. 4, Block 62; Fig. 11, Block 150 and 152; Col. 2, Lines 16-19; Col. 3, Lines 1-9; Col. 7, Lines 28-35); an estimation; and a transmitting section that transmits information of the estimated reception quality of the data channel signal to the base station apparatus (Fig. 4 and 11; Col. 7, Lines 28-36). Parkvall does not expressly teach an estimation section that estimates the reception quality of a data channel based on the reception quality of the control channel signal and the transmission power values of the control channel signal and data channel signal sent from the base station. Laakso teaches estimating the reception quality of the data channel signal based on the reception quality of the control channel signal and the transmission power values of the control channel signal and data channel signal (Col. 3, Lines 13-20 and 58-67; Col. 4, Lines 1-6, 17-25, and 59-64; Col. 11, Lines 39-59), wherein since the control channel signal and the data channel signal are actually on the same channel but the power control bits are used to determine the quality of the connection; therefore, the power control bits are used to determine the reception quality of the data channel signal as well. Therefore, it would have been obvious to one of ordinary skill in the art to combine the teaching of Laakso with Parkvall in order to control the transmission power with the aim of utilizing the radio resources efficiently (Col. 3, Lines 1-5).

As to claim 20, Parkvall further teaches: selecting means for selecting a target base station apparatus with the best estimated reception quality of the data channel signal from among all the base station apparatuses as the requested destination of the data channel signal (Col. 3, Lines 6-9) by the terminal apparatus; and transmitting means for transmitting the reception quality of the estimated data channel signal to the target base station (Fig. 4 and 11; Col. 7, Lines 44-47).

Allowable Subject Matter

Claims 21-24, 26, and 27 are allowed. The following is a statement of reasons for the indication of allowable subject matter:

As to claims 21-24, 26, and 27, the prior art of record fails to teach deciding a modulation and coding scheme using the information of the reception quality of the data channel signal, wherein the reception quality of the data channel signal is determined based on the reception quality of the control channel signal and the transmission power values of the control channel signal and data channel signal.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Freshteh N. Aghdam whose telephone number is (571) 272-6037. The examiner can normally be reached on Monday through Friday 9:00-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chieh Fan can be reached on (571) 272-3042. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Freshteh Aghdam
April 12, 2006

KEVIN BURD
PRIMARY EXAMINER